

AMENDED IN ASSEMBLY APRIL 17, 2007

AMENDED IN ASSEMBLY APRIL 9, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

## ASSEMBLY BILL

**No. 1428**

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**Introduced by Assembly Member Galgiani**

February 23, 2007

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An act to ~~add Section 2826.7 to~~ *amend Section 2827.9 of the Public Utilities Code*, relating to energy.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1428, as amended, Galgiani. Energy: ~~biomass conversion~~ *agricultural waste* customer-generator pilot program.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, as defined. Existing law authorizes the commission to fix the rates and charges for every public utility, and requires that those rates and charges be just and reasonable. Under existing law, electric service providers, as defined, are required to provide eligible customer-generators with net energy metering, as defined. Under existing law, electrical corporations are required to provide eligible biogas digester customer-generators, that commence operation by December 31, 2009, with net energy metering, as defined, under a pilot program.

*This bill would replace the existing pilot program for eligible biogas digester customer-generators with a pilot program for eligible agricultural waste customer-generators, as defined.*

~~Existing law authorizes California State University, Fresno, until January 1, 2008, to receive a bill credit, as defined, to a benefiting account, as defined, for electricity supplied to the electrical grid by a~~

biomass conversion facility located in Reedley and owned by California State University, Fresno (the Dinuba Facility), and requires the commission to adopt a rate tariff for the benefiting account.

This bill would require electrical corporations to provide eligible biomass conversion customer-generators with net energy metering, as defined, under a pilot program. The bill would prescribe conditions under which these customers may participate in the pilot program established by the bill and would require the electrical corporation to file a standard tariff providing for net energy metering for eligible biomass conversion customer-generators. The bill would require the commission, in consultation with the State Air Resources Board, to report certain information relative to the pilot program to the Legislature by December 31, 2010.

Under existing law, the failure to file a required tariff, or a violation of an order or direction of the commission, including a commission-approved tariff, is a crime. Because the bill would require electrical corporations to file new tariffs and would continue tariffs in effect past their current repeal date, the bill would impose a state-mandated local program by creating new crimes.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: ~~yes~~ no.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. Section 2827.9 of the Public Utilities Code is
- 2     amended to read:
- 3     2827.9. (a) (1) The Legislature finds and declares that a pilot
- 4     program to provide net energy metering for eligible ~~biogas digester~~
- 5     ~~agricultural waste~~ customer-generators would enhance the
- 6     continued diversification of California's energy resource mix and
- 7     would encourage the installation of livestock air emission controls
- 8     that the State Air Resources Board believes may produce multiple
- 9     environmental benefits.
- 10    (2) The Legislature further finds and declares that the net energy
- 11    metering pilot program authorized pursuant to this section for

1 eligible ~~biogas digester~~ *agricultural waste* customer-generators,  
2 which nets out generation charges against generation charges on  
3 a time-of-use basis, furthers the intent of Chapter 7 of the Statutes  
4 of 2001, First Extraordinary Session, by facilitating the  
5 implementation of energy efficiency programs in order to reduce  
6 consumption of energy, reduce the costs associated with energy  
7 demand, and achieve a reduction in peak electricity demand.

8 (b) As used in this section, the following definitions apply:

9 (1) "Electrical corporation" means an electrical corporation, as  
10 defined in Section 218.

11 (2) (A) "~~Eligible biogas digester~~ *agricultural waste*  
12 customer-generator" means a customer of an electrical corporation  
13 that meets both of the following criteria:

14 (i) ~~Uses a biogas digester~~ *an eligible manure-fueled* electrical  
15 generating facility with a capacity of not more than one megawatt  
16 that is located on or adjacent to the customer's owned, leased, or  
17 rented premises, is interconnected and operates in parallel with  
18 the electric grid, and is sized to offset part or all of the eligible  
19 ~~biogas digester~~ *agricultural waste* customer-generator's own  
20 electrical requirements.

21 (ii) Is the recipient of local, state, or federal funds, or who  
22 self-finances pilot projects designed to encourage the development  
23 of eligible ~~biogas digester~~ *manure-fueled* electrical generating  
24 facilities.

25 (B) Notwithstanding subparagraph (A), up to three large ~~biogas~~  
26 ~~digester~~ *manure-fueled* electrical generating facilities with a  
27 generating capacity of more than one megawatt and not more than  
28 10 megawatts, otherwise meeting the criteria of this section, shall  
29 be eligible for participation in the pilot program.

30 (3) "~~Eligible biogas digester~~ *manure-fueled* electrical generating  
31 facility" means a generating facility used to produce electricity by  
32 either a manure methane production project ~~or~~, as a byproduct of  
33 the anaerobic digestion of biosolids and animal waste, *or through*  
34 *thermal decomposition or other means of conversion.*

35 (4) "*Manure*" means any substance composed primarily of  
36 *animal excrement, plant remains, or mixtures of those substances.*

37 (4)

38 (5) "Net energy metering" means measuring the difference  
39 between the electricity supplied through the electric grid and the  
40 difference between the electricity generated by an eligible ~~biogas~~

1 ~~digester agricultural waste~~ customer-generator and fed back to  
2 the electric grid over a 12-month period as described in subdivision  
3 (e). Net energy metering shall be accomplished using a time-of-use  
4 meter capable of registering the flow of electricity in two  
5 directions. If the existing electrical meter of an eligible ~~biogas~~  
6 ~~digester agricultural waste~~ customer-generator is not capable of  
7 measuring the flow of electricity in two directions, the eligible  
8 ~~biogas-digester agricultural waste~~ customer-generator shall be  
9 responsible for all expenses involved in purchasing and installing  
10 a meter that is able to measure electricity flow in two directions.  
11 If an additional meter or meters are installed, the net energy  
12 metering calculation shall yield a result identical to that of a  
13 time-of-use meter.

14 (c) Every electrical corporation shall file with the commission  
15 a standard tariff providing for net energy metering for eligible  
16 ~~biogas-digester agricultural waste~~ customer-generators, consistent  
17 with this section. Every electrical corporation shall make this tariff  
18 available to eligible ~~biogas-digester agricultural waste~~  
19 customer-generators upon request, on a first-come-first-served  
20 basis, until the combined statewide cumulative rated generating  
21 capacity used by the eligible ~~biogas-digester agricultural waste~~  
22 customer-generators in the service territories of the three largest  
23 electrical corporations in the state reaches 50 megawatts. An  
24 eligible ~~biogas-digester agricultural waste~~ customer-generator  
25 shall be eligible for the tariff for the life of the eligible ~~biogas~~  
26 ~~digester manure-fueled~~ electrical generating facility.

27 (d) Each net energy metering contract or tariff shall be identical,  
28 with respect to rate structure, all retail rate components, and any  
29 monthly charges, to the contract or tariff to which the same  
30 customer would be assigned if the customer was not an eligible  
31 ~~biogas-digester agricultural waste~~ customer-generator, except as  
32 set forth in subdivision (e). Any new or additional demand charge,  
33 standby charge, customer charge, minimum monthly charge,  
34 interconnection charge, or other charge that would increase an  
35 eligible ~~biogas-digester agricultural waste~~ customer-generator's  
36 costs beyond those of other customers in the rate class to which  
37 the eligible ~~biogas-digester agricultural waste~~ customer-generator  
38 would otherwise be assigned are contrary to the intent of this  
39 legislation, and shall not form a part of net energy metering tariffs.

(e) The net energy metering calculation shall be made by measuring the difference between the electricity supplied to the eligible *agricultural waste* customer-generator and the electricity generated by the eligible *agricultural waste* customer-generator and fed back to the electric grid over a 12-month period. The following rules shall apply to the annualized metering calculation:

(1) The eligible—~~biogas—digester~~ *agricultural waste* customer-generator shall, at the end of each 12-month period following the date of final interconnection of the eligible—~~biogas digester~~ *customer-generator's manure-fueled electrical generating* system with an electrical corporation, and at each anniversary date thereafter, be billed for electricity used during that period. The electrical corporation shall determine if the eligible—~~biogas digester~~ *agricultural waste* customer-generator was a net consumer or a net producer of electricity during that period. For purposes of determining if the—~~biogas digester~~ *eligible agricultural waste* customer-generator was a net consumer or a net producer of electricity during that period, the electrical corporation shall aggregate the electrical load of—~~a dairy~~ *an agricultural* operation under the same ownership, including, but not limited to, the electrical load attributable to—~~milking operations, milk refrigeration~~ *operating the agricultural production facility*, and water pumping located on property adjacent or contiguous to the—~~dairy property~~ *on which the eligible manure-fueled generating facility is located*. Each aggregated account shall be billed and measured according to a time-of-use rate schedule.

(2) At the end of each 12-month period, where the electricity supplied during the period by the electrical corporation exceeds the electricity generated by the eligible—~~biogas digester~~ *agricultural waste* customer-generator during that same period, the eligible—~~biogas digester~~ *agricultural waste* customer-generator is a net electricity consumer and the electrical corporation shall be owed compensation for the eligible—~~biogas digester~~ *agricultural waste* customer-generator's net kilowatthour consumption over that same period. The compensation owed for the eligible—~~biogas digester~~ *agricultural waste* customer-generator's consumption shall be calculated as follows:

(A) The generation charges for any net monthly consumption of electricity shall be calculated according to the terms of the tariff to which the same customer would be assigned to or be eligible

1 for if the customer was not an eligible ~~biogas digester~~ *agricultural*  
2 *waste* customer-generator. When those eligible ~~biogas digester~~  
3 *agricultural waste* customer-generators are net generators during  
4 any discrete time-of-use period, the net kilowatthours produced  
5 shall be valued at the same price per kilowatthour as the electrical  
6 corporation would charge for retail kilowatthour sales for  
7 generation, exclusive of any surcharges, during that same  
8 time-of-use period. If the eligible ~~biogas digester~~ *agricultural*  
9 *waste* customer-generator's time-of-use electrical meter is unable  
10 to measure the flow of electricity in two directions, paragraph (4)  
11 of subdivision (b) shall apply. All other charges, other than  
12 generation charges, shall be calculated in accordance with the  
13 eligible ~~biogas digester~~ *agricultural waste* customer-generator's  
14 applicable tariff and based on the total kilowatthours delivered  
15 by the electrical corporation to the eligible ~~biogas digester~~  
16 *agricultural waste* customer-generator. To the extent that charges  
17 for transmission and distribution services are recovered through  
18 demand charges in any particular month, no standby reservation  
19 charges shall apply in that monthly billing cycle.

20 (B) The net balance of moneys owed shall be paid in accordance  
21 with the electrical corporation's normal billing cycle.

22 (3) At the end of each 12-month period, where the electricity  
23 generated by the eligible ~~biogas digester~~ *agricultural waste*  
24 customer-generator during the 12-month period exceeds the  
25 electricity supplied by the electrical corporation during that same  
26 period, the eligible ~~biogas digester~~ *agricultural waste*  
27 customer-generator is a net electricity producer and the electrical  
28 corporation shall retain any excess kilowatthours generated during  
29 the prior 12-month period. The eligible ~~biogas digester~~ *agricultural*  
30 *waste* customer-generator shall not be owed any compensation for  
31 those excess kilowatthours.

32 (4) If an eligible ~~biogas digester~~ *agricultural waste*  
33 customer-generator terminates service with the electrical  
34 corporation, the electrical corporation shall reconcile the eligible  
35 ~~biogas digester~~ *agricultural waste* customer-generator's  
36 consumption and production of electricity during any 12-month  
37 period.

38 (f) No ~~biogas digester~~ *eligible manure-fueled* electrical  
39 generating facility shall be eligible for participation in the tariff  
40 established pursuant to this section, that has not commenced

1 operation by December 31, 2009. ~~A biogas digester~~ *An eligible*  
2 *agricultural waste* customer-generator shall be eligible for the  
3 tariff established pursuant to this section, only for the operating  
4 life of the eligible ~~biogas digester~~ *manure-fueled* electrical  
5 generating facility.

6 (g) No ~~biogas digester~~ *manure-fueled* electrical generating  
7 facility that is subject to the best available control technology  
8 (BACT) requirements shall be eligible for participation in the tariff  
9 pursuant to this section unless the ~~biogas digester~~ *manure-fueled*  
10 electrical generating facility has installed the best available control  
11 technology as required by the regional air pollution control district  
12 at the time of installation to ensure the maximum feasible  
13 reductions in toxic and criteria pollutants.

14 (h) On or before December 31, 2008, the commission, in  
15 collaboration with the State Air Resources Board, shall report to  
16 the Legislature all of the following information:

17 (1) The impact of the pilot program on emissions of air  
18 pollutants.

19 (2) The impact of the pilot program on the reliability of the  
20 transmission and distribution grid.

21 (3) The impact of the pilot program on ratepayers.

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23  
24 **All matter omitted in this version of the bill**  
25 **appears in the bill as amended in Assembly,**  
26 **April 9, 2007 (JR11)**  
27